

## **ELECTRONIC FILING**

### **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: : Michael M. Mann; Arne Haugland  
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Application No. : 10/679,255  
:  
Filing Date : October 3, 2003  
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For : BUSINESS ANALYSIS AND MANAGEMENT  
: SYSTEMS UTILIZING EMERGENT STRUCTURES  
:  
Examiner : Brandi P. Parker  
Art Unit : 3624  
Confirmation No. : 7674  
Docket No. : 65568/ENCMP

### **DECLARATION OF MICHAEL M. MANN IN SUPPORT OF AMENDMENT IN RESPONSE TO OFFICE ACTION**

I, Michael M. Mann, declare as follows:

1. I am, and at all times herein have been, the Chairman of the Board of EnCompass Knowledge Systems, Inc. ("EnCompass"). EnCompass is the owner by Assignment of the above application.

2. The Application Notes ("the Notes") which were cited in the Office Action were developed to provide background to EnCompass' product development partners with regard to application of the software, and for the consultants who would be participating in the conduct of the alpha and beta testing phases.

3. The alpha testing by consultants in 1999 led to substantial changes in the concept and implementation of the application, and a revision of the initial working drafts of the Notes in 2000 prior to beta testing. The Notes had a notice of copyright 2000, the date of the revision thereof, attached prior to distribution within the development and beta

test team. Beta testing was conducted in 2001. In both the alpha and beta test phases, the software was maintained solely on EnCompass computers, and the client organizations had access only to study reports, not the Notes.

4. On June 3, 2002, the Notes were first posted on the public website for EnCompass ([www.encompassknowledge.com](http://www.encompassknowledge.com)), as archived by the Wayback Machine ([www.archive.org](http://www.archive.org)). At that time, the web developer had reviewed EnCompass' internal materials, and believed that the non-public Notes, which included the revision's 2000 copyright notice thereon, would be very useful in helping potential users to understand the potential uses and value to be derived by EnCompass. The Notes, with the 2000 copyright notice, were first included on the public website in 2002.

5. There was no distribution of the Notes to the public in any manner whatsoever prior to, during, or after 2000, until the inclusion thereof on the public website on June 3, 2002.

I hereby declare that all statements made herein of our my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 6/29/09

By: 

Michael M. Mann